

**Filed in District Court
State of Minnesota**

APR 29 2019

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

State of Minnesota,

Court File No. 27-CR-18-6859

Plaintiff,

vs.

Mohamed Mohamed Noor,

Defendant.

JURY INSTRUCTIONS

**Judge Kathryn Quaintance
Presiding**

DUTIES OF JUDGE AND JURY

It is your duty to decide the questions of fact in this case. It is my duty to give you the rules of law you must apply in arriving at your verdict.

You must follow and apply the rules of law as I give them to you, even if you believe the law is or should be different. Deciding questions of fact is your exclusive responsibility. In doing so, you must consider all the evidence you have heard and seen in this trial, and you must disregard anything you may have heard or seen elsewhere about this case.

I have not by these instructions, nor by any ruling or expression during the trial, intended to indicate my opinion regarding the facts or the outcome of this case. If I have said or done anything that would seem to indicate such an opinion, you are to disregard it.

PRESUMPTION OF INNOCENCE

The defendant Mohamed Noor is presumed innocent of the charges made. This presumption remains with the defendant Mohamed Noor unless and until he has been proven guilty beyond a reasonable doubt. That the defendant Mohamed Noor has been brought before the court by the ordinary processes of the law and is on trial should not be considered by you as in any way suggesting guilt. The burden of proving guilt is on the State. The defendant Mohamed Noor does not have to prove innocence.

PROOF BEYOND A REASONABLE DOUBT

The law requires the State to prove the elements of the offense beyond a reasonable doubt. It does not require that the elements be proved beyond all possibility of doubt. Proof beyond a reasonable doubt is that amount of proof that ordinary men and women would act upon in their most important decisions. You have a reasonable doubt if your doubts are based upon reason and common sense. You do not have a reasonable doubt if your doubts are based upon speculation or irrelevant details.

DIRECT AND CIRCUMSTANTIAL EVIDENCE

A fact may be proven by either direct or circumstantial evidence, or by both. The law does not prefer one form of evidence over the other. A fact is proven by direct evidence when, for example, it is proven by witnesses who testify to what they saw, heard, or experienced, or by physical evidence of the fact itself. A fact is proven by circumstantial evidence when its existence can be reasonably inferred from other facts proven in the case.

RULINGS ON OBJECTIONS TO EVIDENCE

During this trial I have ruled on objections to certain testimony and exhibits. You must not concern yourself with the reasons for the rulings, since they are controlled by rules of evidence.

By receiving evidence to which objection was made, I did not intend to indicate the weight to be given such evidence. You are not to speculate as to possible answers to questions that I did not require to be answered. You are to disregard all evidence I have ordered stricken or have told you to disregard.

INSTRUCTIONS TO BE CONSIDERED AS A WHOLE

You must consider these instructions as a whole and regard each instruction in the light of all the others. The order in which the instructions are given is of no significance. You are free to consider the issues in any order you wish.

NOTES TAKEN BY JURORS

You have been allowed to take notes during the trial. You may take those notes with you to the jury room. You should not consider these notes binding or conclusive, whether they are your notes or those of another juror. The notes should be used as an aid to your memory and not as a substitute for it. It is your recollection of the evidence that should control. You should disregard anything contrary to your recollection that may appear from your own notes or those of another juror. You should not give greater weight to a particular piece of evidence solely because it is referred to in a note taken by a juror.

STATEMENTS OF JUDGE AND ATTORNEYS

Attorneys are officers of the court. It is their duty to make objections they think proper and to argue their client's cause. However, the arguments or other remarks of an attorney are not evidence.

If the attorneys or I have made or should make any statement as to what the evidence is, which differs from your recollection of the evidence, you should disregard the statement and rely solely on your own memory. If an attorney's argument contains any statement of the law that differs from the law I give you, disregard the statement.

EVALUATION OF TESTIMONY — BELIEVABILITY OF WITNESSES

You are the sole judges of whether a witness is to be believed and of the weight to be given a witness's testimony. There are no hard and fast rules to guide you in this respect. In determining believability and weight of testimony, you may take into consideration:

- (1) the witness's interest or lack of interest in the outcome of the case;
- (2) the witness's relationship to the parties;
- (3) the witness's ability and opportunity to know, remember, and relate the facts;
- (4) the witness's manner;
- (5) the witness's age and experience;
- (6) the witness's frankness and sincerity, or lack thereof;
- (7) the reasonableness or unreasonableness of the witness's testimony in the light of all the other evidence in the case;
- (8) any impeachment of the witness's testimony; and
- (9) any other factors that bear on believability and weight.

You should rely in the last analysis upon your own experience, good judgment, and common sense.

EXPERT TESTIMONY

A witness who has special training, education, or experience in a particular science, occupation, or calling, is allowed to express an opinion as to certain facts. In determining the believability and weight to be given such opinion evidence, you may consider:

- (1) The education, training, experience, knowledge, and ability of the witness,
- (2) The reasons given for the opinion,
- (3) The sources of the information, and
- (4) Factors already given you for evaluating the testimony of any witness.

Such opinion evidence is entitled to neither more nor less consideration by you than any other evidence.

IMPEACHMENT

In deciding the believability and weight to be given the testimony of a witness, you may consider evidence of a statement by, or conduct of, the witness on some prior occasion that is inconsistent with the testimony at trial. Evidence of any prior inconsistent statement or conduct should be considered only to test the believability and weight of the witness's testimony at trial. However, in the case of the defendant Mohamed Noor, evidence of any statement may be considered by you for all purposes.

There was some testimony that witnesses violated Minneapolis Police Department policies. This testimony should be considered by you only in testing the believability and weight of the witnesses' testimony at trial.

DEFENDANT'S RIGHT NOT TO TESTIFY

The State must convince you by evidence beyond a reasonable doubt that the defendant Mohamed Noor is guilty of the crime charged. The defendant has no obligation to prove innocence. The defendant has the right not to testify. This right is guaranteed by the federal and state constitutions.

MULTIPLE OFFENSES CONSIDERED SEPARATELY

In this case, the defendant Mohamed Noor has been charged with multiple offenses. You should consider each offense, and the evidence pertaining to it, separately. The fact that you may find the defendant Mohamed Noor guilty or not guilty as to one of the charged offenses should not control your verdict as to any other offense.

INSTRUCTION ON DEMONSTRATIVE EXHIBITS—GENERALLY

The State introduced demonstrative exhibits in the form of summaries. This information was presented to assist you as an aid in your understanding of the DNA analyst's and the GSR analyst's testimony here in court. If the summaries were not consistent with the facts or figures shown by the evidence in this case, as you find them, you should disregard the summaries and determine the facts from the underlying evidence.

SUMMARIES ENTERED INTO EVIDENCE

During the trial, the State used a summary as an aid to your understanding of its investigator Dunlap's testimony and to help explain the facts disclosed by the records and other documents that are evidence in the case. Summaries are based on the underlying supporting material. You should, therefore, give them only such weight as you think the underlying material deserves.

DEFINITIONS OF WORDS

During these instructions, I define certain words and phrases. You are to use those definitions in your deliberations. If I have not defined a word or phrase, you should apply the common, ordinary meaning of that word or phrase.

MURDER IN THE SECOND DEGREE—DEFINED

Under the laws of Minnesota, a person intentionally causing the death of another person, but without premeditation, is guilty of murder in the second degree.

MURDER IN THE SECOND DEGREE—ELEMENTS

The elements of murder in the second degree as alleged in this case are:

First, the death of Justine Ruszczyk must be proved.

Second, the defendant Mohamed Noor caused the death of Justine Ruszczyk.

Third, the defendant Mohamed Noor acted with the intent to kill Justine Ruszczyk or another person. To find the defendant Mohamed Noor had an "intent to kill," you must find the defendant Mohamed Noor acted with the purpose of causing death, or believed the act would have that result. Intent, being a process of the mind, is not always susceptible to proof by direct evidence, but may be inferred from all the circumstances surrounding the event. It is not necessary that the defendant Mohamed Noor's act be premeditated.

Fourth, the defendant Mohamed Noor's act took place on July 15, 2017, in Hennepin County.

If you find each of these elements has been proven beyond a reasonable doubt, the defendant Mohamed Noor is guilty of this charge. If you find any element has not been proven beyond a reasonable doubt, the defendant Mohamed Noor is not guilty of this charge.

MURDER IN THE THIRD DEGREE—DEPRAVED MIND—DEFINED

Under Minnesota law, a person causing the death of another by perpetrating an act eminently dangerous to others and evincing a depraved mind, without regard for human life, but without intent to cause the death of any person, is guilty of murder in the third degree.

MURDER IN THE THIRD DEGREE—DEPRAVED MIND—ELEMENTS

The elements of murder in the third degree as alleged in this case are:

First, the death of Justine Ruszczyk must be proven.

Second, the defendant Mohamed Noor caused the death of Justine Ruszczyk.

Third, the defendant Mohamed Noor's intentional act, which caused the death of Justine Ruszczyk, was eminently dangerous to human beings and was performed without regard for human life. Such an act may not be specifically intended to cause death, and may not be specifically directed at the particular person whose death occurred, but it is committed in a reckless or wanton manner with the knowledge that someone may be killed and with a heedless disregard of that happening.

Fourth, the defendant Mohamed Noor's act took place on July 15, 2017, in Hennepin County.

If you find that each of these elements has been proven beyond a reasonable doubt, the defendant Mohamed Noor is guilty of this charge. If you find that any element has not been proven beyond a reasonable doubt, the defendant Mohamed Noor is not guilty of this charge.

MANSLAUGHTER IN THE SECOND DEGREE—DEFINED

Under Minnesota law, whoever, by culpable negligence, whereby he creates an unreasonable risk and consciously takes the chance of causing death or great bodily harm to another person, causes the death of another is guilty of manslaughter in the second degree.

MANSLAUGHTER IN THE SECOND DEGREE—ELEMENTS

The elements of manslaughter in the second degree are:

First, the death of Justine Ruszczyk must be proven.

Second, the defendant Mohamed Noor caused the death of Justine Ruszczyk, by culpable negligence, whereby the defendant Mohamed Noor created an unreasonable risk and consciously took a chance of causing death or great bodily harm.

“To cause” means to be a substantial causal factor in causing the death. The defendant Mohamed Noor is criminally liable for all the consequences of his actions that occur in the ordinary and natural course of events, including those consequences brought about by one or more intervening causes, if such intervening causes were the natural result of the defendant Mohamed Noor's acts. The fact that other causes contribute to the death does not relieve the defendant Mohamed Noor of criminal liability.

“Culpable negligence” is intentional conduct that the defendant Mohamed Noor may not have intended to be harmful, but that an ordinary and reasonably prudent person would recognize as involving a strong probability of injury to others. Culpable negligence is more than ordinary negligence. It is more than gross negligence. It is gross negligence coupled with an element of recklessness.

“Recklessness” is a conscious disregard of a substantial and unjustifiable risk of death or great bodily harm to others. This means the defendant Mohamed Noor consciously committed an act: 1) that created a risk; 2) the risk was substantial; 3) there was no adequate reason for taking the risk; 4) the defendant Mohamed Noor was aware of the risk; and 5) the defendant Mohamed Noor disregarded it. The defendant Mohamed Noor need not have intended, however, to cause harm.

“Great bodily harm” means bodily injury that creates a high probability of death, or causes serious permanent disfigurement, or causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

Third, the defendant Mohamed Noor's act took place on July 15, 2017, in Hennepin County.

If you find that each of these elements has been proven beyond a reasonable doubt, the defendant Mohamed Noor is guilty. If you find that any element has not been proven beyond a reasonable doubt, the defendant Mohamed Noor is not guilty.

AUTHORIZED USE OF DEADLY FORCE BY PEACE OFFICERS

The statutes of Minnesota provide that no crime is committed, and a peace officer's actions are justified, only when the peace officer uses deadly force in the line of duty when necessary

to protect the peace officer or another from apparent death or great bodily harm; or

to effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force; or

to effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony if the officer reasonably believes that the person will cause death or great bodily harm if the person's apprehension is delayed.

"Deadly force" means force which the peace officer uses with the purpose of causing, or which the peace officer should reasonably know creates a substantial risk of causing death or great bodily harm.

As to each count or defense, the kind and degree of force a peace officer may lawfully use is limited by what a reasonable peace officer in the same situation, without the benefit of hindsight, would believe to be necessary. Any use of force beyond that is regarded by the law as excessive. To determine if the actions of the peace officer were reasonable, you must look at those facts known to the officer at the precise moment he acted with force. Giving due regard for the pressures faced by peace officers, you must decide whether the officer's actions were objectively reasonable in the light of the totality of the facts and circumstances confronting the officer, without regard to the officer's own state of mind, intention or motivation.

The State has the burden of proving beyond a reasonable doubt that the defendant Mohamed Noor was not authorized to use deadly force.

JURY QUESTIONS DURING DELIBERATION

If you have a question about any part of the testimony or any legal question after you have retired for deliberation, please address it to the judge in writing, and give it to the deputy.

As I told you, you may take with you into the jury room a copy of the instructions that I am reading to you. The lawyers and I have determined that these instructions contain all the laws that are necessary for you to know in order to decide this case.

I cannot give you a trial transcript. No such transcript exists. We count on the jury to rely on its collective memory. If you have a request to have a portion of a witness's testimony read back to you by my court reporter, I will consider the request, in consultation with the lawyers; but that request may be denied, in which case you'll be asked to rely on your collective memory.

If you submit a question to me about the law or evidence, I will need to consult with the lawyers before deciding whether I can answer the question. Because the lawyers and I may be in other hearings, it may take a significant amount of time to respond to your question.

I say this not to discourage you from asking questions but only to inform you that the asking of a question about the law or evidence is a significant event that takes time to address.

**DUTIES OF JURORS: SELECTION OF FOREPERSON; UNANIMOUS VERDICT; DELIBERATION;
RETURN OF VERDICT**

When you return to the jury room to discuss this case you must select a jury member to be foreperson. That person will lead your deliberations.

In order for you to return a verdict, whether guilty or not guilty, each juror must agree with that verdict. Your verdicts must be unanimous.

You should discuss the case with one another, and deliberate with a view toward reaching agreement, if you can do so without violating your individual judgment. You should decide the case for yourself, but only after you have discussed the case with your fellow jurors and have carefully considered their views. You should not hesitate to reexamine your views and change your opinion if you become convinced they are erroneous, but you should not surrender your honest opinion simply because other jurors disagree or merely to reach a verdict.

The foreperson must date and sign the verdict forms when you have finished your deliberations and reached a verdict.

You will be given three verdict forms, one for each of three charges, and you will place an "X" in the space on each form that reflects your decision. I will read the verdict forms to you now.

When you agree on your verdicts and have completed your deliberations, notify the deputy.

You will return to the courtroom where your verdicts will be received and read out loud in your presence.

In arriving at your verdicts, the subject of penalty or punishment is not to be discussed or considered by you. This is a matter that lies solely with the Court and within the limits prescribed by law. The subject of penalty or punishment must not be discussed and must not in any way affect your decision as to whether or not the State has proved the charges beyond a reasonable doubt.

Your duty is to both the State and the defendant Mohamed Noor. The State and the defendant Mohamed Noor both have the right to expect that you will see that justice is done according to your true conclusions. The responsibility which rests upon you should be borne courageously and without fear or favor. Be fair, act honestly, deliberate without prejudice, bias or sympathy, and without regard to your personal likes or dislikes.

Now this case is in your hands.